

Thrift Depositor Protection Ovsgrt. Bd.

§ 1506.1

minimum standards of competency, experience, integrity, and fitness and that only persons meeting such minimum standards:

(1) Enter into any contract with the RTC; or

(2) Are employed by the RTC or otherwise perform any service for or on behalf of the RTC.

(c) The standards established by the RTC in its policies and procedures issued pursuant to paragraph (a) of this section shall, at a minimum, prohibit from service on its behalf any person who has:

(1) Been convicted of any felony;

(2) Been removed from, or prohibited from participation in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency;

(3) Demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

(4) Caused a substantial loss to Federal deposit insurance funds.

(d) The RTC shall prescribe policies and procedures which require that any offer (not subject to the regulations at 12 CFR part 1506 or 12 CFR part 1606), and any employment application submitted to the RTC, include a list and description of any instance during the preceding 5 years in which the person or company under such person's control defaulted on a material obligation to an insured depository institution; and such additional information as the RTC determines to be necessary.

[55 FR 5358, Feb. 14, 1990; 55 FR 11719, Mar. 29, 1990]

PART 1506—QUALIFICATION OF, ETHICAL STANDARDS OF CONDUCT FOR, AND RESTRICTIONS ON THE USE OF CONFIDENTIAL INFORMATION BY INDEPENDENT CONTRACTORS

Sec.

1506.1 Authority, purpose, and scope.

1506.2 Definitions.

1506.3 Contractors' Conflicts Committee and Outside Counsels' Conflicts Committee.

1506.4 Qualification of contractors.

1506.5 Disqualification of contractors.

1506.6 Organizational conflicts of interest.

1506.7 Personal conflicts of interest.

1506.8 General standards for independent contractor activities.

1506.9 Limitations on concurrent and subsequent activities.

1506.10 Communications with RTC employees.

1506.11 Confidentiality of information.

1506.12 Source selection information.

1506.13 Use of consultants.

1506.14 Use of information.

1506.15 Rescission of contracts.

1506.16 Resolution Trust Corporation as conservator.

AUTHORITY: 12 U.S.C. 1441a(a)(13) and (p)(1)(B), (3), (6), and (7).

SOURCE: 55 FR 5350, 5356, Feb. 14, 1990, unless otherwise noted.

§ 1506.1 Authority, purpose, and scope.

(a) *Authority.* This part is adopted pursuant to section 21A(p) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ('FIRREA'), Pub. L. 101-73, section 501, 103 Stat. 183, 363 (to be codified at 12 U.S.C. 1441a(p)); section 21A(b) (4) and (12) of the Federal Home Loan Bank Act, as added by section 501 of FIRREA, Pub. L. 101-73, section 501, 103 Stat. 183, 363 (to be codified at 12 U.S.C. 1441a(b) (4) and (12)); and section 11(d) of the Federal Deposit Insurance Act, as amended by section 212 of FIRREA, Pub. L. 101-73, section 212, 103 Stat. 183, 222 (to be codified at 12 U.S.C. 1821(d)). Pursuant to those sections, the Oversight Board and the Resolution Trust Corporation are promulgating rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, the use of confidential information consistent with the goals and purposes of titles 18 and 41 of the United States Code, and minimum standards of competence, experience, integrity, and fitness.

(b) *Purpose.* These regulations seek to ensure that contractors meet minimum standards of competence, integrity, fitness, and experience and are held to the highest standards of ethical conduct in performing services for the RTC. They are intended to prevent:

(1) The direct or indirect use of information gained through performance of a contract with the RTC for personal

gain not contemplated by the contract; and

(2) The use of personal relationships or improper influence to gain unfair competitive advantage in obtaining contracts with the RTC.

(c) *Scope.* These regulations apply to contracts for services entered into by the RTC, after the effective date of these regulations, with law firms, accounting firms, investment banking firms, real estate brokers, appraisers, asset managers, property managers, leasing agents, and others performing similar services on behalf of the RTC. Except for contracts for legal, accounting, or investment banking services, contracts with a single contractor attributable to the Corporation, a single conservatorship, or a single consolidated field office, in which payments over the course of one year are not expected to aggregate in excess of \$25,000, are not subject to these regulations. Further, these regulations shall not apply to contracts for day-to-day operations, routine maintenance, or the provision of electronic data processing services for the RTC, and shall not apply to real estate brokers' commissions resulting from nonexclusive offerings.

§ 1506.2 Definitions.

As used in this part:

(a) *Competing property* means real property which has the same general character as an asset which is the subject of a contract between the contractor and the RTC, is in the same geographic market as defined in the solicitation, and in which the contractor or a related entity has 25 percent or greater ownership interest.

(b) *Contractor* means the individual or entity submitting an offer to perform services for the RTC or having a contractual arrangement with the RTC to perform services but does not include special government employees. For the purposes of §§ 1506.6, 1506.7, and 1506.8, *contractor* includes a subcontractor.

(c) *Defalcation* means:

(1) Any default on any obligation to pay principal or interest to an insured depository institution; or

(2) Any act that was intended to cause a loss to an insured depository institution; or

(3) A borrower's entering into a loan agreement with an insured depository institution, the making of which was an unsafe or unsound action of the institution on the basis of facts that the borrower knew or should have known, and the borrower's default on such loan in the amount of \$50,000 or more.

(d) *Default* means:

(1) A delinquency of 90 or more days as to payment of principal or interest on a loan or advance from an insured depository institution; or

(2) A failure to comply with the terms and conditions of a contract with the FDIC, the FSLIC, or the RTC, or an insured depository institution, other than a loan or advance.

(e) *FDIC* means the Federal Deposit Insurance Corporation in its corporate or receivership capacity or as conservator of an insured depository institution.

(f) *FSLIC* means the former Federal Savings and Loan Insurance Corporation and the Federal Savings and Loan Insurance Corporation Resolution Fund.

(g) *Loss* means:

(1) An obligation as to which there is a continuing legal claim that is owed to an insured depository institution, or to Federal deposit insurance funds, FSLIC, or to the RTC that is 12 months or more delinquent as to principal or interest; or

(2) An obligation to pay an outstanding, unsatisfied, final judgment based on any legal theory in favor of any insured depository institution, Federal deposit insurance funds, FSLIC, or the RTC.

(h) *Management official* means those individuals within a contractor's organization who have substantial responsibility for the direction and control of the contractor's policies and operations. With respect to partnerships that have a management committee or executive committee which has been given such responsibilities, this means only the members of those committees and, if no such committee exists, this means each of the general partners.

(i) *Material obligation* means an obligation which, if not satisfied, would cause a loss of \$50,000 or more.

(j) *Organizational conflict of interest* means a situation in which: